Supreme Court, U.S.
FILED
06-574 JUN 30 2006
OFFICE OF THE CLERK

In The

Supreme Court of the United States

Claudia S. Glover
Petitioner

v.

Secretary, DHHS *Respondent*

On Petition For Writ Of Certiorari
To The U.S. Court of Appeals for the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

Claudia S. Glover
6156 Wooded Run Drive
Columbia, Maryland 21044
(301) 435-5784

QUESTIONS PRESENTED

1. Whether the Fourth Circuit Court, in conflict with the Supreme Court, erred by ignoring that a United States v. Booker error was made when the defendant's attorney requested a Motion to Dismiss Or In the Alternative For Summary Judgment for the wrong case in Glover v. DHHS when it Affirmed the lower court's decision.

2. Whether the Fourth Circuit Court of Appeals has been allowed to render decisions in a blatantly discriminatory manner without accountability, oversight, or knowledge of the U.S. Supreme Court, and/or whether the U.S. Supreme Court has simply been looking the other way.

1. Explained- In Glover v. DHHS the defendant's attorney made an improper statement of the law when he made a Motion To Dismiss Or in the Alternative for Summary Judgment based on the wrong case. The attorney tried to correct his mistake in his Reply Memorandum which was an improper use of such a document. The Judge ignored the Petitioner's Motion for Summary Judgment with Relief in her favor and granted the Defendant's Motion. Petitioner's Motion was filed in a timely manner.

Table Of Authority

Cases

United States v. Booker, 543 U.S. 220 (2005)

Ware v. State, 497 P.2d 775 (1972)

United States v. Watkins (4-51-S-34)

Wal-Mart Stores, Inc. v. Wright, 754 N.E.E.2d 1013, 1018 (Ind. Ct. App. 2001)

PETITION FOR A WRIT OF CERTIORARI

Petitioner, Claudia S. Glover, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

JURISDICTION

The final Order of the District Court was rendered May 2, 2005, and the final judgment of the court of appeals was entered on January 31, 2006. On April 27, 2006, the Chief Justice extended the time within which to file this petition to June 30, 2006 (No. 05A977).

SUMMARY OF FACTS AND CASE

The Defendant's Motion To Dismiss Or For Summary Judgment only referred to Petitioner's Affidavit One which OFO had dismissed in a document dated, September 18, 2002. Per Washington, D.C. District Court instructions, the Petitioner attached a copy of that document to her Complaint. In fact, it was the first document in the Complaint package followed by a document which contains DHHS's final ruling, dated October 25, 2002, on the Petitioner's subsequent cases which are described in Affidavits Two and Three. The latter document gives proof of the Petitioner's **Right to File a Complaint in District Court.** A review of the Defendant's attorney's Motion will show that Affidavits Two and Three are totally ignored. Affidavit Two is the operative document and the dismissal letter regarding these EEO cases (which were consolidated by Baltimore's Administrative Judge Shubow), as stated earlier, is dated October 25, 2002.

It is obvious that The Defendant's attorney did not understand the procedural history of the Petitioner's cases before requesting a Motion To Dismiss , Or In The

Alternative for Summary Judgment. The Defendant's attorney tried to correct his mistake by filing a Reply Memorandum In Support Of Defendant's Motion to Dismiss Or, In the Alternative For Summary Judgment. However, the contents of this Motion are inappropriate because a Reply Memorandum should only address the contents of the previous Motion (Âffidavit One). Erroneously, the Defendant's attorney's Reply Memorandum addresses Affidavits Two and Three as if he is adding them to his Motion to Dismiss Or For Summary Judgment. The District Court Judge ignored Petitioner's Motion for ruling in her favor because of this error and improper statement of the law and granted Defendant's Motion for Summary Judgment.

All of the Defendant's attorney's arguments in his Motion and Reply Memorandum are false. The Judge ignored the Petitioner's Motion and argument.

The Petitioner appealed to the Fourth Circuit Court because although she submitted a Motion for Reconsideration of the final ruling of her case by the District Court Judge late, the Judge also allowed the defendant's attorney to submit documents late, and because the defendant's attorney had made an improper statement of the law. The Petitioner's had requested an extension because she had a heart condition and Pneumonia, however, the District Court Judge did not grant her the extension she requested. The Petitioner also appealed to the Fourth Circuit because she had been denied Discovery and the right to have her witness heard in her case. The petitioner case was squashed by the government because it lacked evidence to prevail under equitable conditions.

SUMMARY OF ARGUMENT

The Fourth Circuit Court Of Appeals Affirmed the District

Court ruling stating,

> "This court does not have jurisdiction to review the March 4, 2005 order dismissing Glover's complaint because Glover failed to file a timely notice of appeal from the order. When the United States or its officer or agency is a party, the notice of appeal must be filed no more than sixty days after the entry of the district court's final judgment or order, Fed. R. App. P. 4(a) (1) (B), unless the district court extends the appeal period under Fed. R. App. P. 4 (a) (5) or reopens the appeal period under Fed. R. App. P. 4 (a) (6)..."

This Fourth Circuit statement is based on the District's court Judge final order which states,

> "The Motion for reconsideration filed by plaintiff Claudia S. Glover, has been read and considered, together with the related papers. The motion is **DENIED** for the following reasons:
>
> 1.It was not filed within 10 days of the entry of summary judgment as required by Fed.R.Civ.P.59(e);
> 2.It is not supported by any affidavit or other evidentiary material;
> 3.It presents no legal or factual basis to reconsider the court's earlier judgment.
>
> **So Ordered** this 2nd day of May, 2005."

The Judge's reasons for denying the Petitioner's Motion is flawed. Whether or not then Petitioner is able to state the law relating to an error made by the Court is no reason for the Court to ignore the error if it is brought to the Court's attention by the Petitioner. The Petitioner does not always have to relate an error to a case. The lower court made a mistake in ruling against the Petitioner as it relates to points 2 and 3. The Petitioner was very ill and had problems keeping up with the pace of the proceedings in her case. Thus, she requested an extension which was denied. Thus even point 1 should be considered an error by the District Court. Although these arguments were brought to the Appeals Court's attention the Court still affirmed the District Court's Judgment.

ARGUMENT

1. Whether the Fourth Circuit Court, in conflict with the Supreme Court, erred by ignoring that a United States v. Booker error was made when the defendant's attorney requested a Motion To Dismiss Or In The Alternative For Summary Judgment for the wrong case in Glover v. DHHS when it Affirmed the lower court decision.

The defendant's attorney made an improper statement of the law when he made a Motion to Dismiss Or In The Alternative For Summary Judgment for the wrong case in Glover v. DHHS. The District Court erred as a matter of law. The defendant's improper statement of law was covered up by the District Court Judge. Thus, this error highly prejudiced the Petitioner case. United States v. Booker, 543 U.S. 220, 125 S.Ct. 738, 160 L.Ed.2d 621 (2005) and progeny, Wal-Mart Stores, Inc. v. Wright, 754 N.E.2d 1013, 1018 (Ind. Ct. App. 2001, Ware v. State, 497 P.2d 775 (1972), United States v. Watkins (4-51-5-34).

2. Whether the Fourth Circuit Court Of Appeals has been allowed to render decisions in a blatantly discriminatory manner without accountability, oversight and knowledge of the U.S. Supreme Court, and/or whether the U.S. Supreme Court has simply been looking the other way.

The Fourth Circuit Court rendered 54 decisions in cases brought forth in violation of Title VII of the Civil Rights Act of 1964 in 2005. Of these decisions only 52 Affirmed the District Court's Decision and two cases that the District Court had rendered Summary Judgment to the Employer were dismissed. All 52 of the cases rendered judgment in favor of the employer.

It is well known in the Washington D.C. area that you will Probably not get a fair decision and due process in Districts Courts that feed into, and in the Fourth Circuit. In fact, it is deemed next to an impossibility to receive justice in these courts. The above statistics show that whatever decision the District Court renders it will be likely be Affirmed by the Fourth Circuit. Thus, Petitioners scramble to get their case in the Washington D.C. District Court to at least be in a Court that has the appearance and history of being fair. On the contrary, the Fourth Circuit Court has a history of being discriminatory with its roots mired in nepotism and crony-ism. The lower courts that feed into the Fourth Circuit Court know that their decisions will be up-held by the Fourth Circuit whether unfair or down right negligent, as in my case.

CONCLUSION

For the above reasons, the Fourth Circuit Court decision should be reversed.

June 29, 2006

Respectfully submitted,
Claudia S. Glover
Claudia S. Glover

APPENDIX

United States District Court,

1. D. Maryland.

Claudia Sanchez **GLOVER,**

v.

Tommy G. THOMPSON, Secretary, United States Department of Health and Human

Services,

No. Civ. CCB-04-693.

March 5, 2004.

Claudia Sanchez Glover, Columbia, MD, pro se.
John Walter Sippel, Jr., Office of the United States Attorney, Baltimore, MD, Sherri Lanette Evans, United States Attorneys Office, Washington, DC, for Tommy G. Thompson Secretary, Department of Health and Human Services.

MEMORANDUM

Claudia Sanchez Glover instituted this suit pursuant to Title VII of the Civil Rights Act of 1964, 1. 42 U.S.C.2000e *et seq* alleging race and sex discrimination and retaliation for her prior EEO activity. The defendant, Department of Health and Human Services ("DHHS"), has filed its motion to dismiss, or in the alternative, for summary judgment. Because materials in the form of affidavits and exhibits thereto have

been submitted by both sides, the motion will be treated as a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. *See* Fed.R.Civ.P. 12(b)(6). Thismatter has been fully briefed and no hearing is necessary. *See* Local Rule 105.6. For the reasons stated below, the court will grant summary judgment to the defendant.

BACKGROUND

Claudia Sanchez Glover ("Glover") worked as a statistician at the U.S. Department of Health and Human Services ("DHHS") in its Office of Special Populations Research ("OSPR") at the National Institutes of Health in Bethesda, Maryland. (Def.'s Reply in Supp. of Mot. to Dismiss, Glover Aff., Ex. 1 at 1; *id.*, Report of Investigation, Ex. 2 at 2.) Glover's claims stem from several interactions with her supervisor, Dr. Otis W. Brawley, ("Brawley"), director of OSPR. The first occurred in February 1999 when after being denied her request to obtain additional office furniture for her office files, Glover came to the office on the weekend and moved a file cabinet from the common area into her own office space. (Def.'s Mot. to Dismiss, Reprimand Letter, Ex. 1.) In order to move the cabinet and create space for her files, Glover removed files and supplies that had been previously stored in that cabinet. (*Id.*) On February 19, 1999, Glover received a letter of reprimand for taking the file cabinet and for using foul language and exhibiting unprofessional behavior when Brawley questioned her about the file cabinet. (*Id.*) Brawley wrote in the letter of reprimand that Glover was so loud and "irate" that he left her office but that Glover followed him down the hall shouting and using inappropriate speech. (*Id.*) Brawley also noted that Glover's explanation for her behavior, that the file cabinet was "hers" and that she had loaned it to the common area, was incorrect, because it was government property and she

had no possessory right to it. (*Id.*)

Next, Glover received her 1998 performance appraisal from Brawley on March 17, 1999. (*Id.*, 1998 Performance Evaluation, Ex. 2.) Though Brawley gave Glover an "acceptable" rating, she maintains that she deserved a rating of "outstanding" or an "acceptable" rating that was accompanied by a cash reward. 1. [FN1] (*Id.*)

FN1. In fact, there was no "outstanding" rating. Glover could only have been rated "acceptable" or "unacceptable." (Def.'s Mot. to Dismiss, Performance Evaluation, Ex. 2.)

In August 2000, Brawley started to require OSPR staff to sign-in no later than 9:00 a.m. (Def.'s Reply in Supp. of Mot. to Dismiss, Glover Aff., Ex. 1 at 14- 16.) Glover's work day originally started at 8:30 a.m. (*Id.*, Brawley Aff., Ex. 3 at 5-6.) However, because Glover was chronically late to work and frequently missed the daily morning office meetings, Brawley changed the office hours for the whole OSPR staff to start instead at 9:00 a.m. (*Id.* at 6.) Nevertheless, Glover habitually arrived later than that and often as late as 10:00 a.m. (*Id.* at 6.) Brawley alleges that Glover was late more than seventy times over eighty work days. (*Id.*) Consequently, Brawley implemented special leave procedures for Glover. (*Id.*; Def.'s Reply in Supp. of Mot. to Dismiss, Special Leave Procedures Memorandum, Ex. 4.) These procedures required Glover to sign-in through her computer. When Brawley learned that Glover was changing her time in her computer to appear as if she was signing in earlier, he wrote another reprimand letter to her on October 17, 2000. (*Id.*, Reprimand Letter, Ex. 5; *id.*, Brawley Aff., Ex. 3 at 5.)

Glover's attendance at work became the basis for an Absence Without Leave ("AWOL") charge in August 2000. Glover maintains that she called her office twice before 9:00 a.m. on August 24, 2000, and informed the secretaries that she would not be able to come to work that day. (*Id.*, Glover Aff., Ex. 1 at 16.) Because Brawley denied Glover's assertions that she left messages for him with the secretaries and because she did not request leave in advance, Glover was given an AWOL charge. (*Id.*; Def.'s Reply in Supp. of Mot. to Dismiss, Report of EEO Investigation, Ex. 2 at 11-12; *id.*, Brawley e-mails, Ex. 4.) Later, the AWOL was converted to administrative leave and Glover was paid for that time. (*Id.*; Def.'s Reply in Supp. of Mot. to Dismiss, Ex. 3 at 4.)

On October 2, 2000, Glover received yet another letter of reprimand from Brawley, for "snatching" documents from him and using unacceptable language. (*Id.*, Glover Aff., Ex. 1 at 17; Def.'s Reply in Supp. of Mot. to Dismiss, Report of Investigation, Ex. 2 at 12-13; *id.*, Reprimand Letter, Ex. 6; *id.*, Lewis Aff., Ex. 7 at 4-6.) Glover contends that Brawley came into her office, shoved documents at her, and spoke to her in a threatening and unprofessional manner. (*Id.*, Glover Aff., Ex. 1 at 17.) She denies snatching documents from him or talking to him in a loud, abusive manner. (*Id.* at 18.)

In early summer and September 2000, Glover asked Brawley for a promotion to GS-13 from GS-12. (*Id.*, Glover Aff., Ex. 1 at 18.) Brawley informed her that no OSPR employees could receive a promotion because of the forthcoming reorganization and abolition of OSPR. (*Id.*) Brawley maintains that Glover could not receive such a promotion in any event because she was not performing as well as required for GS-12, the level of her current position. (*Id.*, Brawley Aff., Ex.3 at 7.) Also, Glover was told that she would need to apply for a GS-13 job to get a promotion to a

GS-13 position. (*Id.*)

Glover also requested that NIH pay for four graduate courses at the SAS institute. (*Id.*, Glover Aff., Ex. 1 at 19; *id.*, Brawley Aff, Ex. 3 at 7.) She was permitted to enroll in two of the courses she requested. (*Id.* Brawley Aff., Ex. 3 at 8.) Glover claims that Brawley declined to pay for the courses immediately before she was going to register for them. (*Id.*, Glover Aff., Ex. 1 at 20.) However, Brawley granted her request to enroll in the courses. (*Id.*, Brawley Aff., Ex. 3 at 8.) Brawley asserts that it was Glover's responsibility to submit the paperwork for tuition reimbursement. (*Id.*) Glover was reassigned to the Office of Management Analysis ("OMA") on December 3, 2000. (*Id.*, Glover Aff., Ex. 1 at 20.) She complains that she was told she needed to apply for a position in the Center to Reduce Cancer Health Disparities ("CRCHD") if she wanted to work there but the other OSPR employees did not need to apply. (*Id.* at 21.) One year prior to her transfer to OMA, however, Glover had twice been offered the opportunity to work in CRCHD, but she had refused. (*Id.*, Brawley Aff., Ex. 3 at 11.) Thus, she was transferred to a position at OMA, where management believed her knowledge, skills, and abilities were best suited. (*Id.*, Lewis Aff., Ex. 7 at 9.; *id.*, Harford Aff., Ex. 8 at 2-3.) Glover's grade, pay, and competitive status did not change due to her transfer. (*Id.*, Lewis Aff., Ex. 7 at 10; *id*, Harford Aff., Ex. 8 at 2; *id.*, Gillam Aff., Ex. 9 at 2.)

After OSPR closed, all furniture and office equipment, including computers, were to be transferred to the CRCHD. (*Id.*, Brawley Aff., Ex. 3 at 9.) Brawley was informed that Glover was attempting to remove her computer without permission. (*Id.* at 10.) Brawley took Glover's computer and locked it in the OSPR suite. Glover was given a newer

computer in her OMA office. (*Id.*)

Glover filed a formal complaint claiming that she was discriminated against on the basis of her race, color, and sex and in retaliation for her prior EEO complaint. (*Id.*, Glover Aff., Ex. 1 at 12-13, 25.) She requested a hearing before the EEOC. Before the hearing was scheduled, Administrative Judge Charles Shubow entered judgment for the defendant. (*Id.*, Decision and Order, Ex. 10.) DHHS adopted that judgment in its final agency order on October 25, 2002. (*Id.*, Final Agency Order, Ex. 11.) Glover filed her complaint in this court on December 30, 2002.

1. *ANALYSIS*

Rule 56(c) of the Federal Rules of Civil Procedure provides that summary judgment

> shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. The Supreme Court has clarified that this does not mean that any factual dispute will defeat the motion:
>
> By its very terms, this standard provides that the mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no *genuine* issue of *material* fact.

Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986) (emphasis in original). "A party opposing a properly supported motion for summary judgment 'may not rest upon the mere allegations or denials of [his] pleadings,' but rather must 'set forth specific facts

showing that there is a genuine issue for trial." ' *Bouchat v. Baltimore Ravens Football Club, Inc.*, 346 F.3d 514, 525 (4th Cir.2003) (alteration in original) (quoting Fed.R.Civ.P. 56(e)). The court must "view the evidence in the light most favorable to ... the nonmovant, and draw all reasonable inferences in her favor without weighing the evidence or assessing the witness' credibility," *Dennis v. Columbia Colleton Med. Ctr., Inc.*, 290 F.3d 639, 644-45 (4th Cir.2002), but the court also must abide by the "affirmative obligation of the trial judge to prevent factually unsupported claims and defenses from proceeding to trial." *Bouchat*, 346 F.3d at 526 (internal quotation marks omitted) (quoting *Drewitt v. Pratt*, 999 F.2d 774, 778-79 (4th Cir.1993), and citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323-24, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986)).

Under Title VII, an employee may file a civil action "[w]ithin 90 days of receipt of notice of final action taken ... by the Equal Employment Opportunity Commission." 42 U.S.C.A.2000e-16(c). Glover's complaint is comprised of three affidavits. The first affidavit consists of her complaint that her 1998 performance evaluation rating and her receipt of a letter of reprimand on February 19, 1999 were products of Brawley's discriminatory bias against her and were acts of retaliation. Glover brought an EEOC action based on these claims, and the performance appraisal claim was dismissed on September 10, 1999. (Def.'s Mot. to Dismiss, Ex. 7.) Glover never appealed that dismissal; nor did she file her civil claim until December 30, 2002--years beyond the 90 day limitations period. The EEOC-OFO issued its final decision on the letter of reprimand claim on September 18, 2002, rejecting Glover's appeal of the dismissal of her claims. (Def.'s Mot. to Dismiss, Ex. 7.) The EEOC letter states that the EEOC presumes that the decision is received within five calendar days of its issuance. (*Id.; cf.* Fed.R.Civ.P. 6(e) presumes receipt of mail in 3 days.) Thus,

Glover's complaint was required to be filed in this court on or before December 23, 2002. She filed it on December 30, 2002, missing the limitations period. Accordingly, Glover's claims as to the performance evaluation and February 19, 1999 letter of reprimand will be dismissed as untimely.

Because Glover does not offer direct evidence of discrimination, the three-part burden-shifting scheme of *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973) will be applied to her other claims. First, Glover must demonstrate a prima facie case of discrimination. Glover cannot do so, however, as she cannot cite any adverse employment action against her by DHHS. *See Von Gunten v. Maryland*, 243 F.3d 858, 863 n. 1 (4th Cir.2001)(stating that proof of an adverse employment action is required for both disparate treatment discrimination claims and retaliation claims). There is no adverse employment action if the "terms, conditions, or benefits" of Glover's employment were not adversely affected. *Munday v. Waste Management of North America, Inc.*, 126 F.3d 239, 243 (4th Cir.1997).

The special sign-in and leave procedures about which Glover complains did not affect her pay, grade, or employment status. In fact, the procedures were meant to ensure Glover adhered to the hours of employment that had already been agreed upon. *See Jeffers v. Thompson*, 264 F.Supp.2d 314, 329 (D.Md.2003). Furthermore, Glover cannot show that DHHS's legitimate reason for implementing the special procedures, namely her frequent tardiness, was pretext for a discriminatory purpose.

Similarly, Glover suffered no adverse employment action from the AWOL charge following her absence from work on

August 24, 2000, because the AWOL status was converted to administrative leave and Glover was paid for that time. *Id.* Even if Glover could claim that her employment situation was adversely affected, DHHS had a legitimate, non-discriminatory reason for placing her on AWOL status which she has not shown to be pretextual. Glover had violated DHHS procedures for requesting leave. (Def.'s Reply in Supp. of Mot. to Dismiss, Ex. 3 at 3-4; id., Ex. 7 at 3-4.)

Though her dispute and ensuing October 2, 2000, letter of reprimand from Brawley may have been disturbing, Glover suffered no adverse employment action. *See* 1. *Allen v. Rumsfeld*, 273 F.Supp.2d 695, 706 (D.Md.2003); *Jeffers*, 264 F.Supp.2d at 330. While the letter was to remain in Glover's personnel folder for two years, she has not alleged any tangible harm resulting from the dispute or from the letter.

Additionally, Glover complains that she was denied a promotion to a GS-13, but she never applied for an open position. If an employer has a system of posting vacancies and allowing employees to apply for those positions, an employee who does not apply for a position but only generally requests advancement cannot establish a prima facie claim of failure to promote. *Williams v. Giant Food Inc.*, 370 F.3d 423, 430-31 (4th Cir.2004). Moreover, a desk audit indicated that Glover barely performed at the GS-12 level in which she was currently placed. Thus, DHHS had legitimate, non-discriminatory reasons for rejecting Glover's informal request for a promotion.

Glover has not provided evidence to support her claim that Brawley refused to pay for the graduate coursework she requested. It is undisputed that Brawley approved two of the

four courses she asked to take. Accordingly, Glover has not demonstrated that she suffered adverse employment action in this regard.

Likewise, Glover's transfer to OMA does not support a claim because reassignment to a new position that is comparable in pay, grade, level of responsibility and opportunity for promotion does not constitute an adverse employment action. *Boone v. Goldin*, 178 F.3d 253, 256 (4th Cir.1999). Also, Glover had been offered the chance to work in CRCHD and chose not to accept it.

Finally, the computer that Glover used in OSPR belonged to DHHS. All furniture and office equipment in OSPR were to be transferred to CRCHD. Whether Glover took her computer without permission, thereby necessitating its confiscation, or Brawley confiscated it on his own, its removal did not adversely impact the terms, conditions, or benefits of her employment. In fact, Glover was given a newer computer in OMA.

To make a prima facie retaliation claim, Glover must show that: (1)she engaged in a protected activity; (2) her employer took an adverse employment action against her; and (3) a causal link existed between the protected activity and the adverse employment action. *See Price v. Thompson*, 380 F.3d 209, 212 (4th Cir.2004). Because Glover cannot show that DHHS took any adverse employment action against her, she cannot establish a prima facie retaliation claim.

Likewise, Glover may not succeed on her hostile work environment claim as she must show that the offensive conduct was: (1) unwelcome; (2) based on her protected status; (3) sufficiently pervasive or severe to alter her

employment conditions and to create an abusive work environment; and (4) imputable to DHHS. *Ocheltree v. Scollon Productions, Inc.*, 335 F.3d 325, 331 (4th Cir.2003)(en banc). Glover does not demonstrate that the actions by DHHS, or Brawley in particular, were based on her protected status. Nor does she establish that any offensive conduct was frequent, severe, or humiliating enough to create an abusive work environment. *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 23, 114 S.Ct. 367, 126 L.Ed.2d 295 (1993).

For all these reasons, the court will grant summary judgment to DHHS.

A separate order follows.

1. *ORDER*

For the reasons stated in the accompanying Memorandum, it is hereby Ordered that:

1. the defendant's motion to dismiss, or for summary judgment (docket entry no. 20), is GRANTED;

2. judgment is entered in favor of the defendant on all claims;

3. the Clerk shall CLOSE this case; and

4. copies of this Order and the accompanying Memorandum shall be sent to counsel of record and to the plaintiff.

March 4, 2005

s/Catherine C. Blake

United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CLAUDIA SANCHEZ GLOVER	:	
v.	:	CIVIL NO.CCB-O4-693
	:	**EXEMPT FROM ECF**
SECRETARY, U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES	:	

...o0o...

ORDER

The motion for reconsideration filed by plaintiff Claudia Glover, has been read and considered, together with the related papers. The motion is **DENIED** for the following reasons:

1. It was not filed within 10 days of the entry of summary judgment as required by Fed.R.Civ.P.59 (e);

2. It is not supported by any affidavit or other evidentiary material;

3. It presents no legal or factual basis to reconsider the court's earlier judgment.

So Ordered this 2nd day of May, 2005.

Catherine C. Blake
United States District Judge

United States Court of Appeals,

2. Fourth Circuit.

Claudia Sanchez **GLOVER,** Plaintiff--Appellant,

v.

SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES, Defendant--Appellee.

No. 05-1666.

Submitted: Oct. 26, 2005.

Decided: Nov. 14, 2005.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Catherine C. Blake, District Judge. (CA-04-693-CCB).
Claudia Sanchez Glover, Appellant Pro Se. John Walter Sippel, Jr., Office of the United States Attorney, Baltimore, Maryland; Sherri Lanette Evans, Office of the United States Attorney, Washington, D.C., for Appellee.

Before TRAXLER, KING, and SHEDD, Circuit Judges.

Affirmed by unpublished PER CURIAM opinion.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:
Claudia Sanchez Glover appeals a district court order denying her motion for reconsideration. We have reviewed

the record and the district court order and affirm substantially for the reasons stated by the district court. See *Glover v. Secretary, HHS*, No. CA-04-693-CCB (D.Md. May 2, 2005). [FN*] We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

FN* This court does not have jurisdiction to review the March 4, 2005 order dismissing Glover's complaint because Glover failed to file a timely notice of appeal from that order. When the United States or its officer or agency is a party, the notice of appeal must be filed no more than sixty days after the entry of the district court's final judgment or order, Fed. R.App. P. 4(a)(1)(B), unless the district court extends the appeal period under Fed. R.App. P. 4(a)(5) or reopens the appeal period under Fed. R.App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." *Browder v. Director, Dep't of Corr.*, 434 U.S. 257, 264, 98 S.Ct. 556, 54 L.Ed.2d 521 (1978). The district court's order of dismissal was entered on the docket on March 4, 2005. Glover's motion for reconsideration did not toll the sixty day period because it was not filed within ten days of the March 4 order. *See* Fed. R.App. P. 4(a)(4).

Glover's notice of appeal was filed on June 6, 2005, or beyond the sixty day appeal period from the March 4, 2005 order.

s/Patricia S. Connor
Clerk

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

FILED
January 31, 2006

No. 05-1666
CA-04-693-CCB

CLAUDIA SANCHEZ GLOVER
Plaintiff - Appellant

v.

SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES
Defendant - Appellee

On Petition for Rehearing and Rehearing En Banc

The appellant's petition for rehearing and rehearing en banc was submitted to this Court. As no member of this Court or the panel requested a poll on the petition for rehearing en banc, and

As the panel considered the petition for rehearing and is of the opinion that it should be denied,

IT IS ORDERED that the petition for rehearing and rehearing en banc is denied.

Entered for a panel composed of Judge Traxler, Judge King, and Judge Shedd.

For the Court,

/s/ Patricia S. Connor

CLERK

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

FILED
February 8, 2006

No. 05-1666
CA-04-693-CCB

CLAUDIA SANCHEZ GLOVER
Plaintiff - Appellant

v.

SECRETARY, DEPARTMENT OF HEALTH AND HUMAN SERVICES
Defendant - Appellee

MANDATE

The judgment of this Court, entered 11/14/05, takes effect this date.

A certified copy of this Court's judgment and a copy of its decision are issued herewith and constitute the mandate of this Court.

/s/ Patricia S. Connor

CLERK